

BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS

Agenda # III.A.2.

Agenda Item Summary: The Board has proposed amending the air quality rules to allow the owner or operator of an oil and gas well facility, that would otherwise require an air quality permit, to operate the facility up to 60 days prior to submitting an application for an air quality permit. The proposed rules would also require the owner or operator to install and operate certain air pollution control equipment and comply with certain control practices from the initial well completion date until the department's decision on the air quality permit application is final. The proposed rules implement the provisions of Senate Bill 95, passed by the 2005 Montana legislature.

List of Affected Rules: ARM 17.8.743. The proposed new rules will be codified in a new subchapter of ARM Title 17, chapter 8.

Affected Parties Summary: The proposed amendments and new rules would affect owners and operators of oil and gas well facilities.

Scope of Proposed Proceeding: The Board is considering final action on the adoption and amendment of the above-referenced rules as proposed in the Montana Administrative Register.

Background: Senate Bill 95, passed by the 2005 Montana legislature and codified as Sections 75-2-103 and 211, MCA, of the Clean Air Act of Montana, allows oil and gas well facilities to drill and operate up to 60 days prior to submitting an application for an air quality permit. Section 75-2-211(d), MCA, also states that the Board shall adopt rules requiring installation and operation of certain control equipment at oil and gas well facilities until the department issues a decision on a permit application for the facility. If the oil and gas well facility complies with these requirements, SB 95 allows the facility to continue to operate until the department's decision on the permit application is final.

The Board is proposing to adopt and amend air quality rules to allow the owner or operator of an oil and gas well facility, that would otherwise require an air quality permit, to operate the facility up to 60 days prior to submitting an application for an air quality permit. The proposed rules would also require the owner or operator to install and operate certain specified air pollution control equipment and comply with certain air pollution control practices from the initial well completion date of the oil and gas well facility until the department's decision on the air quality permit application is final.

Currently, the air quality rules require the owner or operator of a facility requiring an air quality permit to apply for, and obtain, an air quality permit prior to construction. The proposed new and amended rules would allow the owner or operator of an oil and gas well facility to construct and operate equipment essential to complete the well prior to submitting an application for, and obtaining, an air quality permit. Because it is difficult to determine prior to the completion date if an oil or gas well would need a permit, this would allow for a more accurate evaluation of the well's

potential emissions before a permit is issued, and would avoid lengthy and costly permit processes for wells that may not actually operate beyond the completion date.

Oil and gas well facilities with the potential to emit more than 25 tons per year of any criteria pollutant are required to obtain an air quality permit. Therefore, ARM 17.8.743 is being amended to exclude oil and gas well facilities from the requirement of submitting an application for a Montana Air Quality permit 180 days prior to construction.

New Rule I would define the phrases used in the new rules, based on definitions of the same phrases in Section 75-2-103(13), MCA.

New Rule II would specify the potential to emit permitting threshold for oil and gas well facilities and would require the owner or operator to submit an application for a permit within 60 days after the completion date of the well.

New Rule III would contain the air pollution control requirements for oil and gas facilities to control emissions of volatile organic compounds applicable to the facility until the department's decision on the air quality permit application is final.

New Rule IV would contain requirements to conduct monthly leak detection inspections and repair any detected leaks.

New Rule V would contain recordkeeping requirements concerning leak detection and repair.

New Rule VI clarifies that the effective date of the new rules is January 1, 2006.

Hearing Information: Katherine Orr conducted a public hearing on October 4, 2005, on the proposed amendments and adoption. The public comments received and the Department's proposed responses are included, respectively, with the Hearing Officer Report and the draft Notice of Amendment and Adoption attached to this executive summary.

Board Options: The Board may:

1. Adopt the proposed amendments and new rules as set forth in the attached Notice of Public Hearing on Proposed Amendment and Adoption;
2. Adopt the proposed amendments and new rules with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and Adoption and the record in this proceeding; or
3. Decide not to adopt the amendments and new rules.

DEQ Recommendation: The Department recommends that the Board adopt the proposed amendments and new rules, with the revisions shown in the attached draft Notice of Amendment and Adoption.

Enclosures:

1. Notice of Public Hearing on Proposed Amendment and Adoption;
2. Hearing Officer Report; and
3. Draft Notice of Amendment and Adoption.